

House of Representatives, April 2, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE INTEREST RATE ON LOANS TO CERTAIN BUSINESS ORGANIZATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 37-9 of the general
2 statutes is repealed and the following is
3 substituted in lieu thereof:

4 The provisions of sections 37-4, 37-5 and
5 37-6 shall not affect: (1) Any loan made prior to
6 September 12, 1911; (2) any loan made by (A) any
7 national bank, or any bank or trust company or
8 state or federal savings bank incorporated under
9 the laws of this state, (B) any wholly-owned
10 subsidiary of such national bank, bank or trust
11 company or state or federal savings bank, except a
12 loan for consumer purposes, (C) any federal or
13 state chartered savings and loan association or
14 (D) any credit union or federal credit union; (3)
15 any bona fide mortgage of real property for a sum
16 in excess of five thousand dollars; (4) any loan
17 made to a foreign or domestic corporation,
18 [general or limited] STATUTORY TRUST, LIMITED
19 LIABILITY COMPANY, GENERAL, LIMITED OR LIMITED
20 LIABILITY partnership or association organized for
21 a profit, OTHER SIMILAR COMMERCIAL ENTITY or any
22 individual, provided such corporation, TRUST,

23 COMPANY, partnership, association, COMMERCIAL
24 ENTITY or individual is engaged primarily in
25 commercial, manufacturing, industrial or
26 nonconsumer pursuits and provided further that the
27 funds received by such corporation, TRUST,
28 COMPANY, partnership, association, COMMERCIAL
29 ENTITY or individual are utilized in such entity's
30 business or investment activities and are not
31 utilized for consumer purposes and provided
32 further that the original indebtedness to be
33 repaid is in excess of ten thousand dollars, or,
34 in the case of one or more advances of money of
35 less than ten thousand dollars made pursuant to a
36 revolving loan agreement or similar agreement or a
37 loan agreement providing for the making of
38 advances to the borrower from time to time up to
39 an aggregate maximum amount, the total principal
40 amount of all loans owing by the borrower to the
41 lender at the time of any such advance is in
42 excess of ten thousand dollars; (5) any
43 obligations, including bonds, notes or other
44 obligations, issued by (A) the state, (B) any
45 municipality, including any city, town, borough,
46 district, whether consolidated or not, or other
47 public body corporate, or (C) any authority,
48 instrumentality, public agency or other political
49 subdivision of the state or of a municipality; (6)
50 any loan made by (A) the state, (B) any
51 municipality, including any city, town, borough,
52 district, whether consolidated or not, or other
53 public body corporate, or (C) any authority,
54 instrumentality, public agency or other political
55 subdivision of the state or of a municipality; (7)
56 any loan made for the purpose of financing the
57 purchase of a motor vehicle, a recreational
58 vehicle or a boat, carrying an interest rate of
59 not more than (A) eighteen per cent per annum on
60 loans made on or after July 1, 1981, and prior to
61 October 1, 1985, and (B) on loans made on or after
62 October 1, 1985, and prior to October 1, 1993, (i)
63 sixteen per cent per annum for new motor vehicles,
64 recreational vehicles or boats, and (ii) eighteen
65 per cent per annum for used motor vehicles,
66 recreational vehicles or boats, payable in four or
67 more monthly, quarterly or yearly instalments
68 which is unsecured or in which a security interest
69 is taken in such property; (8) any loan by an
70 institution of higher education made to an

71 individual for the purpose of enabling attendance
72 at such institution and carrying an interest rate
73 of not more than the greater of (A) the maximum
74 rate then permitted by section 37-4, or (B) a rate
75 which is not more than five per cent in excess of
76 the discount rate, including any surcharge, on
77 ninety-day commercial paper in effect from time to
78 time at the federal reserve bank in the federal
79 reserve district where such institution is
80 located; (9) any loan made to a plan participant
81 or beneficiary from an employee pension benefit
82 plan as defined in the Employee Retirement Income
83 Security Act of 1974, Public Law 93-406, as from
84 time to time amended. The provisions of part III
85 of chapter 668 shall not apply to loans made
86 pursuant to subdivision (7) of this section. No
87 provision of this section shall prevent any such
88 bank, trust company or federal or state chartered
89 savings and loan association, credit union or
90 federal credit union or other lender from
91 recovering by an action at law the amount of the
92 principal and the interest stipulated or interest
93 at the legal rate, if interest is not stipulated,
94 in any negotiable instrument which it has acquired
95 for value and in good faith without notice of
96 illegality in the consideration. For the purpose
97 of this section: "Interest" shall not be construed
98 to include attorney's fees, including preparation
99 of mortgage deed and note, security agreements,
100 title search, waivers and closing fees, survey
101 charges or recording fees paid by the mortgagor or
102 borrower; "consumer purposes" shall mean the
103 utilization of funds for personal, family or
104 household purchases, acquisitions or uses.

105 Sec. 2. (NEW) The provisions of sections
106 37-4, 37-5 and 37-6 of the general statutes shall
107 not affect a loan made before the effective date
108 of this act to a statutory trust, limited
109 liability company, limited liability partnership
110 or other similar commercial entity.

111 Sec. 3. This act shall take effect from its
112 passage.

113 JUD COMMITTEE VOTE: YEA 39 NAY 0 JF

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER HB 5542

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Banking

EXPLANATION OF ESTIMATES:

The bill exempts statutory trusts, limited liability companies, limited liability partnerships and other commercial entities from interest rate prohibitions.

There is no workload increase for the Department of Banking. They do not regulate interest rates.

* * * * *

OLR BILL ANALYSIS

HB 5542

AN ACT CONCERNING THE INTEREST RATE ON LOANS TO CERTAIN BUSINESS ORGANIZATIONS

SUMMARY: This bill exempts statutory trusts, limited liability partnerships, and similar commercial entities from the laws establishing a 12% interest cap on loans made to them if:

1. they are engaged primarily in commercial, manufacturing, industrial, or nonconsumer pursuits;
2. the funds are used in their business

activities and not for consumer purposes; and

3. the loan is for more than \$10,000, or in the case of a revolving loan agreement, the total amount of all loans owing at the time of any advance exceeds \$10,000.

This same exemption currently applies to corporations, general or limited partnerships, other for profit associations, and individuals.

The bill also exempts statutory trusts, limited liability companies, limited liability partnerships, and similar commercial entities from the 12% cap in connection with loans made before the bill's effective date. But apparently, unlike loans made after the bill's effective date, these loans do not have to satisfy the three criteria outlined above in order to be exempt.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0